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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,729	04/13/2001	Andreas Fabri	004501-541	5497

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EXAMINER

PHAN, TAM T

ART UNIT	PAPER NUMBER
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2144

DATE MAILED: 09/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/833,729	Applicant(s) FABRI ET AL.	
	Examiner Tam (Jenny) Phan	Art Unit 2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2001.  
2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-10 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 13 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>09/25/2001</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This application has been examined. Pre-amendment A received on 07/26/2001 has been entered. Claims 1-10 are amended.
2. Claims 1-10 are presented for examination.

#### ***Priority***

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.
4. The effective filing date for the subject matter defined in the pending claims which has support in EP 00810322.8 in this application is 04/13/2000. Any new subject matter defined in the claims not previously disclosed in EP 00810322.8, is entitled to the effective filing date of 04/13/2001.
5. Should applicant desire to obtain the benefit of foreign priority under 35 U.S.C. 119(a)-(d) prior to declaration of an interference, a translation of the foreign application should be submitted under 37 CFR 1.55 in reply to this action.

#### ***Information Disclosure Statement***

6. An initialed and dated copy of Applicant's IDS form 1449, Received on 09/25/2001, is attached to the instant Office action.

#### ***Drawings***

7. The drawings are objected to because there are no labels to help facilitate the understanding of the invention. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 101***

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claims 7-10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter of a "program per se". Programs per se are not patentable.

10. For examining purposes, "a computer program" in claims 7-10 will read as "a computer program stored on a computer readable medium" to allow these claims to be examined with respect to the prior art.

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Venkatraman et al. (U.S. Patent Number 5,956,487), hereinafter referred to as Venkatraman.

13. Regarding claim 1, Venkatraman disclosed a method for setting up a communication link between an embedded server of an appliance and a client computer, where the embedded server executes a control program for controlling the appliance, and the client computer executes a client program for displaying data of the appliance and for entering control instructions to the appliance, and, when this

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communication link is operating, the control program communicates with the client program via a business application which is executed on an application server (Title, Abstract, Figures 1a, 2-5, column 5 lines 57-64, column 2 lines 13-41, column 3 lines 5-16, column 5 lines 29-59, column 8 lines 1-28), wherein the following steps are carried out to set up this communication: a) a component loader is transmitted from the embedded server to the application server, b) the component loader causes the business application to be transmitted from a component server to the application server (column 3 lines 17-42, column 4 lines 51-60, column 5 line 42-column 6 line 5, column 6 lines 13-26).

14. Regarding claim 2, Venkatraman disclosed a method wherein the component loader is transmitted from the embedded server to the application server using a network address stored in the embedded server (column 3 lines 17-26, column 7 lines 37-51).

15. Regarding claim 3, Venkatraman disclosed a method wherein the component loader is transmitted from the embedded server to the application server using a lookup server (column 3 lines 42-50, column 7 lines 15-22, lines 37-51).

16. Regarding claim 4, Venkatraman disclosed a method characterized in that, after transmission to the application server, the component loader contains information about a network address for the embedded server (column 3 lines 17-26, column 5 line 65-column 6 line 5, column 7 lines 37-51).

17. Regarding claim 5, Venkatraman disclosed a method wherein the component loader contains information about a network address for the component server (column 3 lines 17-32, column 5 lines 36-51, column 7 lines 37-51).

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18. Regarding claim 6, Venkatraman disclosed a method wherein the component loader is executed on the application server, and thereby transmits the business application from the component server to the application server (column 2 lines 27-41, column 3 lines 17-50, column 5 lines 36-64).

19. Regarding claim 7, Venkatraman disclosed a computer program for setting up a communication link between an embedded server of an appliance and a client computer, where, when this communication link is operating, a business application can be executed on an application server and the business application has means for communicating with a client program on the client computer and with a control program on the embedded server, wherein the computer program can be stored on the embedded server of the appliance, the computer program can be transmitted to the application server and can be executed on the application server, and wherein the computer program has means for loading a business application from a component server into the application server (Title, Abstract, Figures 1a, 2-5, column 5 lines 57-64, column 2 lines 13-41, column 3 lines 5-16, lines 17-42, column 4 lines 51-60, column 5 lines 29-59, column 6 lines 13-26, column 8 lines 1-28).

20. Regarding claim 8, Venkatraman disclosed a method wherein the computer program stores a network address for the component server (column 3 lines 17-32, column 5 lines 36-51, column 7 lines 37-51).

21. Regarding claim 9, Venkatraman disclosed a computer program wherein the computer program has means for loading the business application from the component server onto the application server (column 2 lines 27-41, column 3 lines 17-50, column 5 lines 36-64, column 6 lines 13-22).

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22. Regarding claim 10, Venkatraman disclosed a computer program wherein the computer program has means for communication between the business application executed on the application server and the control program (column 1 lines 57-64, column 5 lines 16-22, lines 29-35, column 7 lines 30-51, column 8 lines 16-28).

23. Since all the limitations of the claimed invention were disclosed by Venkatraman, claims 1-10 are rejected.

24. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

25. A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

26. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Papadopoulos et al. (U.S. Patent Number 6,061,603), hereinafter referred to as Papadopoulos.

27. Regarding claim 1, Papadopoulos disclosed a method for setting up a communication link between an embedded server of an appliance and a client computer, where the embedded server executes a control program for controlling the appliance, and the client computer executes a client program for displaying data of the appliance and for entering control instructions to the appliance, and, when this communication link is operating, the control program communicates with the client program via a business application which is executed on an application server, wherein the following steps are carried out to set up this communication: a) a component loader

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is transmitted from the embedded server to the application server, b) the component loader causes the business application to be transmitted from a component server to the application server (Title, Abstract, Figures 1-3, column 2 lines 45-67, column 3 lines 52-63, column 4 lines 25-50, column 9 lines 42-63, column 10 lines 24-55).

28. Regarding claim 2, Papadopoulos disclosed a method wherein the component loader is transmitted from the embedded server to the application server using a network address stored in the embedded server (column 3 lines 52-64, column 4 lines 11-18, lines 25-39, column 5 lines 24-43).

29. Regarding claim 3, Papadopoulos disclosed a method wherein the component loader is transmitted from the embedded server to the application server using a lookup server (column 6 line 66-column 7 line 22, column 9 lines 1-24).

30. Regarding claim 4, Papadopoulos disclosed a method characterized in that, after transmission to the application server, the component loader contains information about a network address for the embedded server (Figures 3, column 4 lines 25-39, lines 24-43, column 7 lines 43-57).

31. Regarding claim 5, Papadopoulos disclosed a method wherein the component loader contains information about a network address for the component server (Figure 2, column 3 lines 52-64, column 4 lines 9-16).

32. Regarding claim 6, Papadopoulos disclosed a method wherein the component loader is executed on the application server, and thereby transmits the business application from the component server to the application server (column 2 lines 45-67, column 3 lines 52-64, column 4 lines 40-50).



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33. Regarding claim 7, the computer program stored on a computer readable medium corresponds directly to the method of claim 1, and thus is rejected using the same rationale.

34. Regarding claim 8, Papadopoulos disclosed a method wherein the computer program stores a network address for the component server (Figure 2, column 3 lines 52-64, column 4 lines 9-16).

35. Regarding claim 9, Papadopoulos disclosed a computer program wherein the computer program has means for loading the business application from the component server onto the application server (column 3 lines 33-42, lines 52-64, column 4 lines 40-50).

36. Regarding claim 10, Papadopoulos disclosed a computer program wherein the computer program has means for communication between the business application executed on the application server and the control program (column 2 lines 45-67, column 3 lines 52-64, column 4 lines 40-50).

37. Since all the limitations of the claimed invention were disclosed by Papadopoulos, claims 1-10 are rejected.

### ***Conclusion***

38. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Horbal et al. (U.S. Patent Number 6,112,246) disclosed a micro-server adapted to be embedded into a piece of industrial machinery, an automobile, a consumer product, and the like, for publishing information, possibly in the form of web pages, about the device into which the micro-server is embedded or with

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which it is associated and/or for controlling a micro-server equipped device from a possibly remote client. The information may be published such that it is accessible using a standard web-browser. The micro-server is capable of interfacing with a device to access information from the device, such as control or maintenance information. The micro-server can then organize and format that information compatible with a communication protocol in preparation for publishing the information. The micro-server conveniently abstracts from the first device the details of the communication protocol used to publish the information.

b. Humpleman et al. (U.S. Patent Number 6,546,419) disclosed a method for performing a service on a home network having a plurality of home devices connected by connecting a client device to the home network for displaying a user interface; executing a software agent on the client device for obtaining selection information for the network devices and displaying the selection information on a user interface displayed on the client device.

39. Refer to the enclosed PTO-892 for details and complete listing of other pertinent prior art of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam (Jenny) Phan whose telephone number is (703) 305-4665 or (571) 272-3930 (new telephone number after October 2004). The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Cuchlinski can be reached on 703-308-3873. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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August 31, 2004